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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of	)	
	)	
Access Charge Reform For Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation	)	CC Docket No. 98-77

COMMENTS OF THE

UNITED STATES TELEPHONE ASSOCIATION

Its Attorneys

Lawrence E. Sarjeant
Linda Kent
Keith Townsend
John Hunter

U.S. Telephone Association
1401 H Street, N.W.
Suite 600
Washington, D.C. 20005
(202) 326-7371

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SUMMARY

USTA believes that Commission action in this docket must be coordinated with its universal service initiatives regarding rate-of-return LECs. The Commission already has established a reasonable time period for examining the high cost support system for rural LECs, all of which are subject to rate-of-return regulation. Accordingly, the Commission should defer any permanent alterations to the access charge structure for rate-of-return LECs until after it completes such changes to the universal service system.

If the Commission decides, however, to proceed on an interim basis before fully considering universal service issues, it should adopt USTA's access reform plan for rate-of-return LECs as described in these comments. Under USTA's plan, interim changes to the access charge structure would be accompanied by greater pricing flexibility for rate-of-return LECs and improved forms of regulation to permit these LECs to address competition.

The relatively small scale economies and high common line costs of rate-of-return LECs argue strongly against imposition of an access charge structure identical to that adopted for price cap LECs, which have different characteristics. As a result, any access charge reform measures for rate-of-return LECs that reasonably seek to protect universal service will take longer to align rates and costs than for price cap LECs. Because of the relatively high non-traffic sensitive ("NTS") loop, or common line, costs of many rate-of-return LECs, it makes even less sense for an abrupt change to exclusively flat-rated NTS cost recovery for rate-of-return LECs than for price cap LECs.

USTA's plan provides for recovery of the common line revenue requirement of rate-of-return LECs through the use of subscriber line charges ("SLCs") and presubscribed interexchange carrier charges ("PICCs") structured similarly, but not identically, to those for

price cap LECs. However, the USTA plan does not distinguish between "primary" and "non-primary" residential lines, because of universal service concerns, economic considerations, and administrative difficulties specific to rate-of-return LECs.

Thus, the same SLC and PICC would apply to all residential lines, single-line business lines, and Basic Rate Interface ("BRI") ISDN lines. SLCs for these lines provided by rate-of-return LECs will be no greater than the $3.50 SLCs for primary residential and single-line business lines provided by price cap LECs. PICCs for all residential lines, single-line business lines, and BRI ISDN lines of rate-of-return LECs will be no greater than the nationwide averages of these rates for primary residential and single-line business lines in effect for price cap LECs in the current year.

Similarly, SLCs and PICCs for multi-line business lines and Primary Rate Interface ISDN lines provided by rate-of-return LECs will be no greater than the nationwide averages of the rates for these elements in effect for price cap LECs in the current year. Nationwide averages are best suited for these rates because they provide a broad guideline as to what reasonable rates for these elements are throughout the United States in both urban and rural areas served by price cap LECs.

With respect to the carrier common line ("CCL") charge, the Commission should not cap or otherwise prescribe a maximum rate for the CCL charge as an interim measure. USTA's plan provides a means of reducing the CCL charge that is comparable to the price cap access rules. Moreover, the USTA plan is far superior to use of the price cap rules in addressing the universal service and competitive challenges faced by rate-of-return LECs.

Only limited changes should be considered in the local switching category. The Commission should not reassign any switch-related costs to the common line category from the local switching category. Doing so would place additional burdens on common line cost recovery mechanisms and could reduce local switching support to small rate-of-return LECs. Other charges and rate elements proposed for the local switching category should be optional for rate-of-return LECs. USTA supports a per-minute rate structure for shared local switching facilities of rate-of-return LECs.

The transport interconnection charge ("TIC") should not be moved into the common line pricing structure for rate-of-return LECs. The TIC should continue to be recovered on a per-minute basis, at least until further consideration by a joint board. Doing so would promote efficiency, universal service, and administrative simplicity.

Rate-of-return LECs should not be required to establish several tandem-switched transport rate elements and associated surrogate rates, which should be optional instead.

Pricing flexibility for rate-of-return LECs is an essential part of USTA's plan. The revisions to the access charge structure discussed above properly balance cost-causation and universal service principles. However, they also introduce additional rigidity into the access structure. Pricing flexibility will reduce the negative effects of such rigidity.

The Commission should permit zone pricing of SLCs, PICCs, and the CCL charge within each study area served by a rate-of-return LEC that has exited or does not participate in the pooled NECA common line tariff. A reasonable number of geographic pricing zones should apply in each study area, with rates for these common line elements to be averaged within each zone. Rate-of-return LECs that currently participate in the NECA common line pool should be permitted to withdraw from that pool for specific study areas and file a common line tariff with zone pricing for each of those study areas.

The Commission also should permit a reasonable number of geographic pricing zones for local switching elements in individual study areas. Zone pricing for local switching elements on a study area basis will permit rate-of-return LECs both to respond to competition as it develops in their service territories and also price access services closer to costs.

Regulation of rate-of-return LECs should be improved to permit them to address competition as it develops. One means would be to permit a LEC to tariff and price interstate telecommunications services on an individual case basis, and to file contract-based tariffs for such services. To qualify for such treatment, the rate-of-return LEC would elect, prior to receiving a bona fide interconnection request, to publish and make available a list of unbundled network elements consistent with the Commission's unbundling requirements currently in effect, with prices reasonably related to prices for such elements offered by similarly situated incumbent LECs. The LEC would commit to provide local number portability to any competitive entrant in a timely manner consistent with a state commission's approval of an interconnection agreement between the LEC and that entrant.

Alternatively, when a rate-of-return LEC has obtained a state commission's approval of an interconnection agreement under section 251 of the Act in a portion of its serving territory, the Commission should remove the LEC's interstate access rates from rate-of-return regulation within the area in which competition is established by the agreement.

As described in these comments, other changes in the access charge rules should not burden rate-of-return LECs. In this regard, the Notice's initial regulatory flexibility analysis does not fully acknowledge the market position of rate-of-return LECs.

TABLE OF CONTENTS

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I. INTRODUCTION

The United States Telephone Association ("USTA") respectfully submits comments on the above-captioned notice of proposed rulemaking ("Notice").[1] USTA, as the nationwide association of more than 1200 incumbent local exchange carriers ("LECs"), has a special interest in this important proceeding. The Commission's decisions in this docket will have a direct impact on the majority of USTA's members, which are small-to-mid-sized LECs that are subject to federal rate-of-return regulation.

Because the Commission has established a reasonable time period for examining the high cost support system for rural LECs, all of which are subject to rate-of-return regulation,

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1/ *See* CC Docket No. 98-77, Notice of Proposed Rulemaking, FCC 98-101 (rel. June 4, 1998).

USTA urges the Commission to defer any permanent alterations to the access charge structure for rate-of-return LECs until after such changes are complete. If the Commission decides, nonetheless, to proceed on an interim basis before fully considering universal service issues, USTA urges the Commission to adopt the access reform plan for rate-of-return LECs presented in these comments. As USTA's plan proposes, when changes to the access charge structure are made, they should be accompanied by greater pricing flexibility for these LECs and improved forms of regulation to permit rate-of-return LECs to address competition.

Rate-of-return LECs operate in diverse service territories throughout the United States. Rate-of-return LECs vary greatly in size, technological development, and business organization, and in the types of state regulation imposed on them.[2/] They have already absorbed the effects of great regulatory and market change. As Chairman Kennard has noted:

> The Commission has already taken explicit small company support, changed the way that support is collected to be consistent with the 1996 Act, and made that support portable between competing carriers. That's a lot of change for companies that are geographically very targeted and undiversified.[3/]

Rate-of-return LECs also face substantially different circumstances from those of LECs now subject to federal price cap regulation. As the Notice acknowledges, because

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[2/] Attachment A to these comments is an affidavit of Margaret L. Rettle, Lisa M. Milofsky, Calvin S. Monson, Kirsten M. Pehrsson, and Jeffrey H. Rohlfs, Strategic Policy Research Inc. (the "SPR Affidavit"), which describes in detail the conditions under which rate-of-return LECs operate and analyzes the impacts of access charge structural changes on these LECs.

[3/] Remarks by William Kennard, Chairman, FCC, to USTA's Inside Washington Telecom (Apr. 27, 1998) (as prepared for delivery). *See* FCC Web Page, http://www.fcc.gov/Speeches/Kennard/spwek813.html, printed p. 1 (accessed Aug. 13, 1998).

rate-of-return LECs predominantly serve rural and outer suburban areas, with relatively low and, in many cases, extremely low subscribership density, their costs are higher than price cap LECs, which often serve large urban areas.[4] These costs are due to factors such as relatively longer loops and trunks and lower scale economies.[5] Rate-of-return LECs generally depend to a greater extent than price cap LECs on revenues from limited numbers of business users in their service territories. Chairman Kennard has stated:

> [W]e must be sensitive to the special difficulties posed by providing service to four customers a square mile instead of the average for Baby Bells: 330. Rural carriers have higher switching costs. They have higher loop-related costs. And they have less demand.
>
> Rural carriers may also be more vulnerable to competitors that skim the cream by taking away their large, multiline users. We need to be sensitive to the special needs of rural carriers in adopting regulatory changes -- as we move away from implicit to explicit subsidies and from regulated monopoly to competitive markets.[6]

These factors define a harsh reality for rate-of-return LECs as competition increases in their service territories, spurred by the 1996 Act. Competition sometimes may not develop as rapidly in rural and high cost areas as in the more urban parts of the United States because of these areas' economic characteristics.[7] But as technology and markets evolve, competitors will be free to deploy the most advanced and economical technologies to target

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[4] *See* Notice ¶ 16.

[5] Although the Notice states that "[t]echnological advances in the long distance world have created a situation in which distance is much less significant than it has been historically," *id.* ¶ 18, such advances have not alleviated the relatively high costs of loops and trunks in the service territories of most rate-of-return LECs.

[6] Remarks of William Kennard, Chairman, FCC, Connecting All Americans Conference, U.S. Dept. of Commerce (Feb. 26, 1998).

[7] There is no evidence that competition has been delayed by the operation of section 251(f) of the Communications Act of 1934 (the "Act"), as the Notice suggests. *See* Notice ¶ 12.

the business users currently served by rate-of-return LECs. At the same time, competitors are not subject to the pervasive regulation imposed on rate-of-return LECs. As a result, competitors have nearly unlimited flexibility in pricing and offering their services.

Recognizing the differences between rural and urban areas, a universal service principle of the Telecommunications Act of 1996 (the "1996 Act") is to ensure that consumers in rural, insular, and high cost areas should have access to telecommunications and other services that are reasonably comparable to those services provided in urban areas, at rates that are reasonably comparable to rates for similar services offered in urban areas.[8] The 1996 Act also requires providers of interexchange services -- such as the interexchange carriers ("IXCs") -- to charge rates for their services in rural and high cost areas no higher than those in urban areas.[9]

In the face of these conditions, USTA believes that the Commission should not proceed to alter the access charge rate structure that applies to rate-of-return LECs in the way the Notice proposes. The Commission properly has recognized that the differences in the circumstances of rate-of-return and price cap LECs require a different transition to a more cost-based access charge system for rate-of-return LECs.[10] However, access charge issues are only one aspect of the numerous regulatory issues facing rate-of-return LECs. Most notably, the Commission has already determined that changes to the existing high cost

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8/ *See* 47 U.S.C. § 254(b)(3).

9/ *See id.* § 254(g); 47 C.F.R. §§ 64.1801, 64.1900. USTA urges the Commission to enforce section 254(g) vigorously.

10/ *See* Notice ¶ 4.

support mechanism for rural LECs may not occur for several years.[11] USTA strongly supports this decision.

Because of the complexity of the changes that the universal service system is undergoing, the Commission should defer any permanent actions in this proceeding until any changes to that mechanism have been implemented, in order to avoid compromising the high cost mechanism. Competitors, including IXCs and competitive LECs, have the flexibility to target the most desirable customers of rate-of-return LECs and to exit their service territories with virtually no regulatory oversight. As a result, high cost support will be increasingly important as rate-of-return LECs continue to fulfill their carrier-of-last-resort obligations.

In addition to universal service issues, the Commission also should consider changes to the access charge structure in conjunction with introducing additional pricing flexibility for rate-of-return LECs. The Commission also should explore improved forms of regulation to permit rate-of-return LECs to address competition.[12] These issues are so closely related, to each other and to the development of competition under the Communications Act (the "Act"), that the Commission must consider them in an integrated and cohesive way. Any such changes should seek to permit rate-of-return LECs to serve their customers even more efficiently as competition develops.[13]

Recognizing the need for a coordinated approach, USTA presents in these comments a plan for access reform for rate-of-return LECs to help guide the Commission's consideration of these issues. USTA's plan provides for an access charge structure that is similar to that in

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11/ *See id.* ¶ 6.

12/ *See id.* ¶ 5.

13/ Indeed, for some rate-of-return LECs, the use of average schedule cost recovery provides efficiency incentives similar to those of price cap regulation. *See id.* ¶ 17.

place for price cap LECs, including the use of different types of subscriber line charges ("SLCs") and presubscribed interexchange carrier charges ("PICCs"). However, USTA's plan provides ceilings for SLCs and PICCs based on the nationwide average charges by price cap LECs for these elements. USTA's plan also makes no distinction between "primary" and "non-primary" residential lines. Basing these charges on such nationwide averages is essential to preserving urban/rural parity, as required by the Act for universal service purposes.

Pricing flexibility and improved forms of regulation are also integral parts of USTA's plan. USTA's plan is a realistic way to align the access charge structure for rate-of-return LECs more closely with that of the price cap LECs, while dealing with the special circumstances faced by rate-of-return LECs. The plan is designed to:

(i) Accommodate a basic access charge structure similar to that of the price cap LECs;

(ii) Introduce additional flexibility in access pricing;

(iii) Provide means by which rate-of-return LECs can address competition by, at their election, opening their networks, thereby obtaining regulatory relief; and

(iv) Reduce disparities in access rates between rural and urban areas, promoting the provision of averaged interexchange services pursuant to the Act.

USTA's plan would apply to all rate-of-return LECs, including those that participate in the pooled tariffs administered by the National Exchange Carrier Association ("NECA").[14/]

USTA agrees with the Commission's goal that, whenever possible, costs of interstate access should be recovered in the same way that they are incurred, consistent with cost-

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[14/] *See id.* ¶ 45.

causation principles.[15] However, because of the relatively high non-traffic sensitive ("NTS") loop, or common line, costs of many rate-of-return LECs, it makes even less sense for an abrupt change to exclusively flat-rated NTS cost recovery for rate-of-return LECs than for price cap LECs. Rather, any changes to the current access charge system must continue to strike a balance in NTS cost recovery by relying on a combination of flat-rated and usage-based, per-minute common line charges.

Accordingly, USTA urges the Commission to defer any permanent changes to the access charge system for rate-of-return LECs until it fully considers changes to high cost support. Any Commission actions in this proceeding should be based on USTA's plan for rate-of-return LECs presented herein.

II. ANY CHANGES TO THE ACCESS RATE STRUCTURE FOR RATE-OF-RETURN LECS MUST RECOGNIZE THEIR DIFFERENCES FROM PRICE CAP LECS

USTA's access reform plan is consistent with the Notice's proposal to conform the access charge structure for rate-of-return LECs with the structure in place for price cap LECs, except where differences in the cost structure and market and operational conditions of rate-of-return LECs require different approaches.[16] Although the USTA plan is not identical to the access charge structure in place for price cap LECs, its structure is sufficiently similar to aid the Commission's staff in administering the access charge system

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15/ *See id.* ¶ 11.

16/ *See id.* ¶ 22. The Commission most recently altered the access charge structure for price-cap LECs in CC Docket No. 96-262. *See, e.g.*, First Report and Order, 12 FCC Rcd 15982 (1997) ("Price Cap Access Order"); Order on Reconsideration, 12 FCC Rcd 10119 (1997); *appeal pending sub nom. Southwestern Bell Telephone Co. v. FCC*, No. 97-2618 (8th Cir. argued Jan. 15, 1998); Second Order on Reconsideration, 12 FCC Rcd 16606 (1997).

and in detecting any differences in the regulatory treatment of rate-of-return LECs compared to price cap LECs.

A. The Common Line Access Charge Structure Must Continue To Be Consistent With The Commission's Universal Service Goals

Any changes to the common line access rate structure for rate-of-return LECs must reconcile the Commission's goals of promoting efficiency and competition and its mandate to protect universal service. Some of the most important aspects of common line cost recovery have major roles in universal service. These include the assignment of 25% of common line costs to the interstate jurisdiction[17/] and the pressures on affordability caused by seeking to reduce the present usage-based carrier common line ("CCL") charge.

Indeed, although the Notice describes the efficiency benefits of eliminating usage-based CCL charges as a means of recovering NTS common line costs,[18/] it also acknowledges that for price cap LECs, the Commission has been circumspect in imposing additional flat-rated charges on end users, largely for affordability reasons related to universal service.[19/] For rate-of-return LECs, with their high common line costs, it is even more important that the Commission avoid moving aggressively toward eliminating the CCL charge until an acceptable way exists to provide sufficient universal service support for these costs without compromising affordability concerns.

17/ *See* Notice ¶ 23.

18/ *See id.* ¶¶ 24-25.

19/ *See id.* ¶ 26; *see also Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776 (1997) ("Universal Service Order") ¶¶ 762-764.

Because of the cost structures of rate-of-return LECs, any access charge reform measures for rate-of-return LECs that reasonably seek to protect universal service will take longer to align rates and costs than for price cap LECs.[20] The relatively small scale economies and high common line costs of rate-of-return LECs argue strongly against imposition of an access charge structure identical to that adopted for price cap LECs. Under that structure, the SLCs for the multi-line business lines provided by many rate-of-return LECs would be at the $9.00 ceilings immediately and would not fully recover common line costs. As the SPR Affidavit demonstrates, this could discourage business development in many rural communities served by rate-of-return LECs.[21] Such high SLCs and PICCs also would provide other carriers with entry opportunities due to a regulation-imposed rate structure, not greater efficiencies.[22]

Additional concerns are raised by the potential imposition of higher SLCs and PICCs on what the Commission has termed "non-primary" residential lines. Residential customers of rate-of-return LECs are increasingly subscribing to more than one line, due largely to the dispersed, rural nature of the areas these LECs serve. These multiple residential lines are being used for telecommuting and for educational, medical, and entertainment purposes to overcome distance limitations that otherwise would limit or preclude customers' involvement in these activities. Increased SLCs and higher PICCs for these lines would chill these developments. Moreover, identification of "non-primary," as opposed to "primary" lines is administratively unworkable, as discussed further below.

20/ *See* Notice ¶ 36.

21/ *See* SPR Affidavit at 8.

22/ *See* Notice ¶ 37.

USTA's plan addresses these concerns by providing for recovery of the common line revenue requirement of rate-of-return LECs through the use of SLCs and PICCs structured similarly to those for price cap LECs. PICCs are intended to recover a portion of the common line revenue requirement that SLCs do not recover.[23]

The USTA plan does not distinguish between "primary" and "non-primary" residential lines. The same SLC and PICC would apply to all residential lines, single-line business lines, and Basic Rate Interface ("BRI") ISDN lines. SLCs for these lines provided by rate-of-return LECs will be no greater than the $3.50 SLCs for primary residential and single-line business lines provided by price cap LECs. PICCs for all residential lines, single-line business lines, and BRI ISDN lines of rate-of-return LECs will be no greater than the nationwide averages of these rates for primary residential and single-line business lines in effect for price cap LECs in the current year. Similarly, SLCs and PICCs for multi-line business lines and Primary Rate Interface ("PRI") ISDN lines provided by rate-of-return LECs will be no greater than the nationwide averages of the rates for these elements in effect for price cap LECs in the current year.

USTA believes that nationwide averages are best suited for these rates[24] because they provide a broad guideline as to what reasonable rates for these elements are throughout the United States in both urban and rural areas served by price cap LECs. Such urban/rural parity is an important component of universal service, as demonstrated by the averaging of

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23/ With respect to the PICC, USTA supports the Notice's proposed treatment of PICC charges that may be assessed on interexchange carriers that serve Centrex customers, as well as the proposed 9:1 line-to-trunk equivalency ratio. *See id.* ¶ 43. As USTA has demonstrated for price cap LECs, such an approach is both reasonable and administratively simple.

24/ *See id.* ¶ 40.

interexchange services mandated by section 254(g) of the Act. As the Commission recognized in the Price Cap Access Order, nationwide average charges are a useful means of determining whether the universal service goals of affordability and access are being met.[25] Moreover, nationwide averages are simple for the Commission, NECA, and rate-of-return LECs to calculate and administer, and are conceptually consistent with the nationwide averages used for calculating high-cost support.[26]

In the USTA plan, the common line revenue requirement remaining after application of the SLC and PICC would be recovered through the usage-based CCL charge.[27] USTA recommends that the Commission examine and resolve the longer-term implications of recovering these costs in its universal service proceedings.[28]

At the same time, USTA's plan introduces limited pricing flexibility and improved regulation for rate-of-return LECs. Such mechanisms are essential for rate-of-return LECs, with their high common line costs, to address the competition facilitated by the 1996 Act.

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[25] *See* Price Cap Access Order ¶ 39.

[26] While the PICC currently applies to IXCs, there is some pressure for the Commission to require LECs to apply this charge to end users. *See, e.g.*, MCI Emergency Petition for Prescription, CC Docket No. 97-250 (filed Feb. 24, 1998) at 8-9. If imposed on rate-of-return LECs, such an unwarranted step would raise serious competitive issues and universal service concerns that include both the parity of rural and urban rates and affordability for rural users. These concerns highlight the need for the Commission to cap SLCs and PICCs of rate-of-return LECs at the nationwide average rates for price cap LECs.

[27] LECs participating in NECA's pooled common line tariff also recover a portion of their revenue requirements through long term support ("LTS"). *See* 47 C.F.R. § 54.303. USTA's plan would not change that process.

[28] Rate-of-return companies that are not considered to be rural under the Commission's rules will have their Universal Service support based on forward-looking costs beginning July 1, 1999, and will not be eligible for the present form of LTS under the Commission's Universal Service rules. *See id.* § 54.303; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order and Order on Reconsideration, FCC 98-160 (rel. Jul. 17, 1998).

1. Common Line Charges For Residential Lines, Single-Line Business Lines, and Basic Rate Interface ISDN Service

In the Price Cap Access Order, the Commission set the ceiling for the SLC for primary residential and single-line business lines at $3.50 per line per month.[29] Under USTA's plan, this SLC would apply as well for all residential lines, single-line business lines, and BRI ISDN lines supplied by rate-of-return LECs.

In the Price Cap Access Order, the Commission capped the PICC for residential and single-line business lines supplied by price cap LECs at $0.53 for the first year, with an adjustment for inflation plus $0.50 in successive years until the sum of the SLC and the PICC equals the LEC's common line revenue requirement per line.

For rate-of-return LECs, USTA's plan provides that PICC rates for all residential lines, single-line business lines, and BRI ISDN lines supplied by rate-of-return LECs will be no greater than the nationwide average for the PICC for primary residential and single-line business lines charged by price cap LECs in the current year. The portion of the common line revenue requirement not recovered through both the SLC and the PICC would be recovered through the per-minute carrier common line charge.[30]

As noted above, USTA's plan does not distinguish "primary" from "non-primary" residential lines. Rather, the same SLCs and PICCs would apply to all residential, single-

29/ *See* Price Cap Access Order ¶ 73. Technically, the ceiling is "$3.50 or the permitted price cap common line revenues per line, whichever is less." *Id.*

30/ As noted above, LECs in the NECA common line pool would continue to recover a portion of their revenue requirement through LTS as presently defined.

line business, and BRI lines.[31] There are three compelling reasons not to apply higher SLCs and PICCs to these lines:

(1) *Universal Service Concerns.* Residential use of multiple lines, particularly in rural areas, helps fulfill the objectives of the 1996 Act of making services more readily available in rural as well as urban areas.[32] Higher SLC and PICC charges would chill continued growth in these lines, the use of which is flourishing for telecommuting, educational, medical, and entertainment purposes.

(2) *Economic Considerations.* To the extent that the imposition of higher SLCs decreases demand for multiple residential lines, rate-of-return LECs lose SLC and PICC revenue from lines not purchased. In contrast, USTA's plan will provide the impetus for continued growth in demand for these lines. As a result, revenues from this larger, growing customer base may equal or exceed the revenues from higher SLCs or PICCs under an access charge plan that applies such charges to "non-primary" residential lines.[33] Increased use of multiple residential lines will encourage efficient use of the network, and also generate additional local service revenue, which helps enhance the affordability of service for all customers. Moreover, having an additional line for such uses as facsimile or Internet access

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[31] The Price Cap Access Order specifies that for price cap LECs, a SLC ceiling of $5.00 per line per month presently applies for non-primary residential lines and BRI ISDN service, which will be adjusted annually for inflation plus $1.00 until that ceiling equals the $9.00 ceiling for multi-line business lines. *See* Price Cap Access Order ¶ 77. The Price Cap Access Order also sets the ceiling for the PICC for non-primary residential lines at $1.50 per line per month. It applies the same PICC ceiling to BRI ISDN service, annually adjusting this ceiling for inflation plus $1.00 until all common line revenues for these lines are recovered through SLCs and PICCs.

[32] *See* 47 U.S.C. §§ 254(b)(2), (3).

[33] As discussed below, it is difficult for rate-of-return LECs to identify "non-primary" residential lines, and customers have financial incentives not to identify them, which would tend to decrease revenues.

leaves at least one line available for revenue-generating toll calling, which increases toll minutes and reduces per-minute costs. Similar effects due to increased availability were observed when customers moved from multi-party to single-party lines.

(3) *Administrative Realities.* As the Commission has tentatively concluded,

> [A]lthough an ILEC's business records likely distinguish between single-line and multi-line customers, and between residential and business customers, those records *may be inadequate to identify the primary residential line.*[34]

This inadequacy is certainly true for rate-of-return LECs, the vast majority of which are small in size and lack the operations support capability even to begin to make these distinctions. The only possible way to do this in the reasonably foreseeable future would be to rely on customers to self-certify their primary residence line. This would invite customer arbitrage. The ways in which numerous "primary" lines within a single residence could be justified, from the customer's perspective, are unlimited. In short, implementing a hypothetical and artificial distinction between "primary" and "non-primary" residential lines for rate-of-return LECs is unworkable, and should not be ordered by the Commission.

2. Common Line Charges For Multi-line Business Lines And Primary Rate ISDN Service

The Price Cap Access Order established a ceiling of $9.00 per line per month for SLCs for multi-line business lines offered by price cap LECs, which will be adjusted

[34] *Defining Primary Lines*, CC Docket No. 97-181, Notice of Proposed Rulemaking, FCC 97-316 (rel. Sept. 4, 1997) ¶ 8 (emphasis added).

annually for inflation.[35] Under USTA's plan, the SLC for multi-line business lines will be no greater than the nationwide average SLC for multi-line business lines offered by price cap LECs in the current year.

The Price Cap Access Order set a ceiling of $2.75 per line per month for PICCs for multi-line business lines and for primary rate interface ("PRI") ISDN service. This ceiling is to be adjusted annually for inflation plus $1.50 until all common line revenues for these offerings are recovered through SLCs and PICCs. Under USTA's plan, rate-of-return LECs' PICCs for this service will be no greater than the nationwide average charged the current year for these elements by price cap LECs. USTA also agrees that common line revenue requirements not recovered through the SLC and the PICC will be recovered through the carrier common line charge on a per-minute basis.

3. The Carrier Common Line Charge For Rate-Of-Return LECs

The Commission should not cap or otherwise prescribe a maximum rate for the CCL as an interim measure.[36] The use of SLCs and PICCs described above in USTA's access reform plan will go far to improve the efficiency of common line cost recovery by rate-of-return LECs. However, the high costs of loops for many rate-of-return LECs mean that the common line revenue requirements of these LECs will not be recovered as readily through SLCs and PICCs as would be the case for price cap LECs. As noted above, it is extremely

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[35] The Price Cap Access Order also established a price cap SLC for primary rate interface ISDN service that is five times the SLC for a multi-line business line. *See id.* ¶ 116.

[36] *See* Notice ¶ 41.

important that SLCs and PICCs not be allowed to rise to recover the full NTS cost for rate-of-return LECs. This could result in rates that are not comparable for urban and rural customers, as well as competitive distortions. This effect is true for both the SLC and the PICC, even though the PICC is a charge to the IXC rather than directly to end users, since most IXCs have elected to make the PICC a line item on end users' bills.

As a result, the USTA plan retains the CCL charge as a residual cost recovery mechanism that should remain in place until the resolution of high cost recovery issues in the universal service proceeding.[37]

In contrast, under the Price Cap Access Order, the imposition of SLCs and PICCs for price cap LECs is designed to eliminate the CCL charge for those carriers in the relatively near future.[38] As the ceilings on most types of SLCs and PICCs increase for price cap LECs, the portion of the common line revenue requirement recovered by these flat-rated charges will increase as well, and the CCL charge will be reduced until it is eliminated.[39]

Such reductions are unlikely to occur as rapidly for rate-of-return LECs. Limiting SLC cap and PICC ceiling increases as discussed above will cause some continued common line cost recovery through the CCL charge. Attachment B demonstrates this effect.

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[37] USTA further supports implementation of rate banding in the NECA common line tariff similar to what is now in place in NECA's tariff for local switching services. No change in the Commission's rules is needed to implement these changes.

[38] *See* Notice ¶ 38; Price Cap Access Order ¶¶ 100, 102, 105.

[39] After the CCL charge is eliminated, price cap LECs must make further reductions to PICCs on multi-line business lines until those PICCs are equal to the PICCs for non-primary residential lines. Price-cap LECs then must reduce the PICCs for both classes of these lines until the combined SLC and PICCs for primary residential and single-line business lines recover the full average per-line common line revenues permitted under the Commission's price cap rules, and the additional PICCs on non-primary residential and multi-line business lines no longer recover common line revenues. *See* Price Cap Access Order ¶ 102.

Attachment B summarizes a USTA analysis that applied the price cap access rules to a sample consisting of cost and revenue data from 365 small and mid-size rate-of-return study areas for the years 1998 through 2001.[40] Attachment B estimates that under the price cap access rules, in 2001, the SLC for the study sample for multi-line business lines would be $9.83, while the PICC for multi-line business lines would be $7.64. As the Commission notes, the effect of these increases could be to permit competitors, such as nearby price cap LECs, to capture the high-volume business customers of the rate-of-return LECs.[41] Under the price cap access rules, the estimated originating and terminating CCL rate for the study sample in 2001 would be $0.007 per minute.

Attachment B shows further that when the USTA plan is applied to the study sample, limiting SLC and PICC rates to the nationwide price cap average levels as described above, the estimated SLC in 2001 for multi-line business lines would be $7.01 and the estimated PICC for multi-line business lines would be $1.84. Under USTA's plan, the estimated originating and terminating CCL rate in 2001 would be $0.0073 per minute, only slightly greater than the CCL rate of $0.007 per minute estimated for 2001 using the price cap access rules. For the years studied, USTA's plan provides a means of reducing the CCL charge that is comparable to the price cap access rules. At the same time, the USTA plan is far superior to use of the price cap rules in addressing the universal service and competitive challenges faced by rate-of-return LECs.

40/ The assumptions in USTA's study regarding such factors as the relative number of "primary" and "non-primary" residential lines are subject to the types of limitations discussed above in attempting to so categorize residential lines.

41/ *See* Notice ¶ 37.

B. Only Limited Changes Should Be Considered In The Local Switching Category

USTA urges the Commission not to reassign line side port costs, and other switch-related costs, to the common line category from the local switching category.[42] There is no sound reason for such reassignment, which, by increasing the costs in the common line category, will place additional burdens on common line cost recovery mechanisms. Moreover, such reassignment could reduce local switching support to small rate-of-return LECs. This result would be contrary to the Commission's commitment to maintain the amount of universal service support for rural LECs at existing levels.[43]

While cost studies are one way of determining the geographically-averaged portion of local switching costs attributable to line-side and trunk-side ports,[44] they can be extremely burdensome. USTA suggests that the Commission either adopt default percentages until such studies are completed, or permit less detailed studies to be performed at the tariff filing level.

The Notice proposes to require the recovery of dedicated trunk port costs through a flat-rated trunk port charge assessed on the purchaser of the dedicated trunk terminating at

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42/ *See id.* ¶ 54.

43/ *See id.* ¶ 6. The Commission should not make any such reassignment. However, if line side port costs, or any other costs in central office equipment ("COE"), separations category 3, were to be reassigned to the common line category, which USTA does not recommend, the methodology for doing so would have to perform the reassignment only after local switching support funds are calculated and applied to the existing local switching revenue requirement. Thus, the Commission would have to develop the local switching revenue requirement under the current rules for doing so. It would then have to apply local switching support to reduce the local switching revenue requirement, and then reassign the portion of the remaining local switching revenue requirement that is associated with line ports to the common line revenue requirement.

44/ *See id.* ¶ 54.

the port.[45] USTA believes that such a charge should be optional, in order to minimize the administrative burdens on rate-of-return LECs in creating and pricing such a charge.

Similarly, a separate rate element should not be required for the recovery of the additional costs of DS1/voice grade multiplexers associated with analog switches that were reassigned from the Transport Interconnection Charge ("TIC").[46] Such an element should be optional, which would permit smaller rate-of-return LECs to avoid undue administrative burdens. Moreover, this cost recovery issue is moot for those LECs that do not have any analog switches. This is the case for many rate-of-return LECs as a result of state modernization initiatives and other regulations.

USTA also supports the Commission's proposal to permit, but not require, a separate, monthly, flat-rated user charge for recovering the incremental costs of a line port for ISDN or other services over those for an analog line port.[47] The Commission has demonstrated great foresight in making this proposal optional. A mandatory user charge would severely limit the ability of small rate-of-return LECs to offer these services. This, in turn, would violate the universal service principles of the Act, particularly the goal of rural/urban parity in the availability of services. In contrast, the flexibility proposed by the Commission will have the effect of improving efficient cost recovery.

With respect to cost recovery for shared facilities, USTA supports a per-minute rate structure for shared local switching facilities of rate-of-return LECs.[48] USTA also supports

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[45] *See id.* ¶ 55.

[46] *See id.*

[47] *See id.* ¶ 56.

[48] *See id.* ¶ 58.